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09/991,061	11/21/2001	Yasuyuki Ishihara	791_174	3771

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EXAMINER

MACKEY, JAMES P

ART UNIT

PAPER NUMBER

1722

DATE MAILED: 06/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/991,061

Applicant(s)

ISHIHARA, YASUYUKI

Examiner

James Mackey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 2-5 and 9-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 6-8 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5, 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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1. Applicant's election of Species D (and Species E), claims 1, 6-8 and 20, in Paper No. 8 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Note that, as requested by Applicant, Species E has been examined along with elected Species D; although claims corresponding to Species E have not been identified by Applicant, the Examiner considers claim 8 to correspond to Species E. Note also that, although claims 18-19 depend from claim 6 (which corresponds to Species D and E), the substance of claims 18-19 does not correspond to the elected Species (and the substance of claims 18-19 does not apparently have support in the disclosure), and therefore claims 18-19 are grouped with the non-elected claims.

2. Claims 2-5 and 9-19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 8.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1, 6-8 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 7, "said green tire" lacks proper antecedent basis in the claim; line 9, the relationship between the ventlids and the apertures is not clearly recited in the claim and therefore the claim lacks nexus, since the structural interrelationships between the apparatus

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elements must be clearly and positively recited; line 9, the semi-colon after "ventlids" should be changed to a comma, so that the following recitation "each of which" clearly refers to the ventlids; line 14-15, "an upper portion of the mold" is indefinite as to exactly where this upper portion is located in relation to the two sub-molds (it is suggested that the claim refer to the shaping surfaces of a mold cavity defined by the sub-molds); and lines 18-19 which recite "period of time when said green tire contacts said upper portion to a time when it reaches the surface of said sub-molds" is indefinite and apparently contrary to the recitation at lines 14-16 which recite that the contact with an upper portion of the mold is when the green tire is pressed on respective surfaces of the sub-molds.

In claim 6, lines 4-6, "which are cut along with a baseline formed from one or more cuts which are formed from one or more ... lines" is indefinite and confusing (how are the cut portions "cut along with a baseline", how do the cut portions relate to the subsequently recited "cuts", and how are cuts "formed from one or more ... lines"?).

In claim 7, line 3, "using as a boundary" is unclear and indefinite as to exactly what is intended; lines 3-5, "said cuts formed through direction of the thickness at a predetermined location of said sub-molds" is unclear and confusing as to how the cuts, which are formed in the lid mechanism, are cuts at a location of the sub-molds, and indefinite as to the exact meaning of "formed through direction of the thickness"; and line 6, "said venthole" lacks proper antecedent basis in the claims.

In claim 8, "using as a boundary" is unclear and indefinite as to exactly what is intended; and "said cuts formed with passing through direction of the thickness at a predetermined location of said sub-molds" is unclear and confusing as to how the cuts, which are formed in the lid

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mechanism, are cuts at a location of the sub-molds, and indefinite as to the exact meaning of "formed with passing through direction of the thickness".

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by any one of Carter (U.S. Patent 4,492,554; Figs. 3-10), Green (U.S. Patent 5,939,101; Figs. 1-2), Japanese Patent Document 2-214616 (Figs. 1-4) and German Patent Document 195 43 276 (Figs. 1-5).

Carter, Green, Japan '616 and German '276 each teach a tire mold comprising two sub-molds each having plural apertures, and plural ventlids disposed in respective apertures, each ventlid including a lid mechanism "made of a flexible and chemically inactive material" (which includes the spring mechanism in each of the references) which is kept in an open state "by spring up" as claimed. Note that the manner or method in which a machine is to be utilized is not germane to the issue of patentability of the machine itself, *In re Casey*, 152 USPQ 235, and therefore the claim recitations regarding the method of using the claimed mold structure do not patentably distinguish the claimed mold.

7. Claims 1 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by German Patent Document 198 33 730; Figures 1, 3, 4 and 6).

German '730 teaches a tire mold comprising two sub-molds each having plural apertures, and plural ventlids disposed in respective apertures, each ventlid including a lid mechanism "made of a flexible and chemically inactive material" which is kept in an open state "by spring

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up”, the lid mechanism comprising a flexible plate member 3 bent at cut portions 6. Note that the manner or method in which a machine is to be utilized is not germane to the issue of patentability of the machine itself, *In re Casey*, 152 USPQ 235, and therefore the claim recitations regarding the method of using the claimed mold structure do not patentably distinguish the claimed mold.

8. Claims 1 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Green (U.S. Patent 5,922,237; Figures 1A-1C; col. 3, lines 2-7 and 36-50).

Green ‘237 teaches a tire mold comprising two sub-molds each having plural apertures, and plural ventlids disposed in respective apertures, each ventlid including a lid mechanism 1, 3 “made of a flexible and chemically inactive material” which is kept in an open state “by spring up”, the lid mechanism comprising a flexible plate member bent at cut portions. Note that the manner or method in which a machine is to be utilized is not germane to the issue of patentability of the machine itself, *In re Casey*, 152 USPQ 235, and therefore the claim recitations regarding the method of using the claimed mold structure do not patentably distinguish the claimed mold.

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Green (U.S. Patent 5,922,237; Figures 1A-1C; col. 3, lines 2-7 and 36-50).

Green ‘237 discloses a tire mold comprising two sub-molds each having plural apertures, and plural ventlids disposed in respective apertures, each ventlid including a lid mechanism 1, 3

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“made of a flexible and chemically inactive material” which is kept in an open state “by spring up”, the lid mechanism comprising a flexible plate member bent at cut portions. While Green ‘237 discloses that the lid mechanism (“spring hinge”) may be “fixed by an appropriate method to the mold surface” (col. 3, lines 46-48), Green does not explicitly disclose a weld. However, welding is a notoriously well known fixing means, and it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Green ‘237 by fixing the lid mechanism by such well known welding fixing means in order to securely fix the lid mechanism to the mold.

11. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Green (U.S. Patent 5,922,237; Figures 1A-1C; col. 3, lines 2-7 and 36-50) in view of either Shurman (U.S. Patent 4,740,145; col. 1, lines 53-65; col. 2, lines 16-19; col. 3, lines 1-2) or Boyce et al. (U.S. Patent 6,280,176; col. 1, lines 60-67).

Green ‘237 discloses a tire mold comprising two sub-molds each having plural apertures, and plural ventlids disposed in respective apertures, each ventlid including a lid mechanism 1, 3 “made of a flexible and chemically inactive material” which is kept in an open state “by spring up”, and further discloses that the material of the ventlid is an elastic engineering plastics material such as thermoplastic or thermosetting materials, but does not disclose the material as being a silicone elastomer or a fluorocarbon elastomer. Shurman and Boyce et al. each disclose a vent mechanism formed of a fluorocarbon elastomer. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Green ‘237 by providing the elastic plastic material of the ventlid as a fluorocarbon elastomer, as disclosed in either Shurman or

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Boyce et al., since such is a conventional material of construction of a vent mechanism, and since such a material has beneficial non-stick properties.

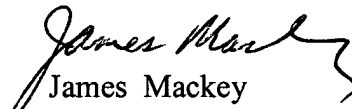
12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Talalay (U.S. Patent 2,290,510; Fig. 2) discloses a mold vent comprising a spring plate member 54.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Mackey whose telephone number is 703-308-1195. The examiner can normally be reached on M-F, 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on 703-308-0457. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

  
James Mackey  
Primary Examiner  
Art Unit 1722

6/25/03

jpm  
June 25, 2003